



Reprinted  
February 13, 2007

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## HOUSE BILL No. 1410

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DIGEST OF HB 1410 (Updated February 12, 2007 7:27 pm - DI 71)

**Citations Affected:** IC 10-13; IC 20-26.

**Synopsis:** Criminal history checks. Exempts a post-secondary school of education from paying a fee for a limited criminal history record for a student before the student begins the student's field or classroom experience. Requires a criminal history background check, including a national background check, for an applicant for employment with a school corporation who begins employment after June 30, 2007. Requires the in-state background check to be completed at least one day before the individual begins employment, and the national background check to be completed not more than 30 days after the individual begins employment. Specifies the results of the criminal history background check may include only: (1) criminal history data with disposition information; and (2) information with respect to any arrest or criminal charge that occurred less than one year before the date the background check was initiated even if a disposition concerning the arrest or criminal charge has not been entered. Allows a school corporation to enter into an agreement with a private entity to perform criminal background checks.

**Effective:** July 1, 2007.

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**Hoy, Koch, Porter, Crouch**

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January 16, 2007, read first time and referred to Committee on Education.  
January 23, 2007, reassigned to Committee on Courts and Criminal Code.  
February 6, 2007, amended, reported — Do Pass.  
February 12, 2007, read second time, amended, ordered engrossed.

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HB 1410—LS 7658/DI 106+



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February 13, 2007

First Regular Session 115th General Assembly (2007)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2006 Regular Session of the General Assembly.

## HOUSE BILL No. 1410

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A BILL FOR AN ACT to amend the Indiana Code concerning education.

*Be it enacted by the General Assembly of the State of Indiana:*

1       SECTION 1. IC 10-13-3-36, AS AMENDED BY P.L.142-2006,  
2       SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
3       JULY 1, 2007]: Sec. 36. (a) The department may not charge a fee for  
4       responding to a request for the release of a limited criminal history  
5       record if the request is made by a nonprofit organization:

6               (1) that has been in existence for at least ten (10) years; and

7               (2) that:

8                       (A) has a primary purpose of providing an individual  
9                       relationship for a child with an adult volunteer if the request  
10                      is made as part of a background investigation of a prospective  
11                      adult volunteer for the organization;

12                     (B) is a home health agency licensed under IC 16-27-1;

13                     (C) is a community mental retardation and other  
14                      developmental disabilities center (as defined in IC 12-7-2-39);

15                     (D) is a supervised group living facility licensed under  
16                      IC 12-28-5;

17                     (E) is an area agency on aging designated under IC 12-10-1;

HB 1410—LS 7658/DI 106+



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(F) is a community action agency (as defined in IC 12-14-23-2);

(G) is the owner or operator of a hospice program licensed under IC 16-25-3; or

(H) is a community mental health center (as defined in IC 12-7-2-38).

(b) Except as provided in subsection (d), the department may not charge a fee for responding to a request for the release of a limited criminal history record made by the department of child services or the division of family resources if the request is made as part of a background investigation of an applicant for a license under IC 12-17.2 or IC 31-27.

(c) The department may not charge a fee for responding to a request for the release of a limited criminal history if the request is made by a school corporation, special education cooperative, or nonpublic school (as defined in IC 20-18-2-12) as part of a background investigation of a prospective or current employee or a prospective or current adult volunteer for the school corporation, special education cooperative, or nonpublic school.

(d) As used in this subsection, "state agency" means an authority, a board, a branch, a commission, a committee, a department, a division, or another instrumentality of state government, including the executive and judicial branches of state government, the principal secretary of the senate, the principal clerk of the house of representatives, the executive director of the legislative services agency, a state elected official's office, or a body corporate and politic, but does not include a state educational institution (as defined in IC 20-12-0.5-1). The department may not charge a fee for responding to a request for the release of a limited criminal history if the request is made:

(1) by a state agency; and

(2) through the computer gateway that is administered by the office of technology established by IC 4-13.1-2-1.

(e) The department may not charge a fee for responding to a request for the release of a limited criminal history record made by the Indiana professional licensing agency established by IC 25-1-5-3 if the request is:

(1) made through the computer gateway that is administered by the office of technology; and

(2) part of a background investigation of a practitioner or an individual who has applied for a license issued by a board (as defined in IC 25-1-9-1).

(f) The department may not charge a church or religious society a

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1 fee for responding to a request for the release of a limited criminal  
2 history record if:

3 (1) the church or religious society is a religious organization  
4 exempt from federal income taxation under Section 501 of the  
5 Internal Revenue Code;

6 (2) the request is made as part of a background investigation of a  
7 prospective or current employee or a prospective or current adult  
8 volunteer; and

9 (3) the employee or volunteer works in a nonprofit program or  
10 ministry of the church or religious society, including a child care  
11 ministry registered under IC 12-17.2-6.

12 **(g) The department may not charge the school of education of**  
13 **a public or private postsecondary educational institution a fee for**  
14 **responding to a request for the release of a limited criminal history**  
15 **record if the request is made as part of a background investigation**  
16 **of a student before or after the student begins the student's field or**  
17 **classroom experience.**

18 SECTION 2. IC 20-26-5-10, AS ADDED BY P.L.1-2005,  
19 SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
20 JULY 1, 2007]: Sec. 10. (a) A school corporation, including a school  
21 township, shall adopt a policy concerning criminal history information  
22 for individuals who:

23 (1) apply for:

24 (A) employment with the school corporation; or

25 (B) employment with an entity with which the school  
26 corporation contracts for services;

27 (2) seek to enter into a contract to provide services to the school  
28 corporation; or

29 (3) are employed by an entity that seeks to enter into a contract to  
30 provide services to the school corporation;

31 if the individuals are likely to have direct, ongoing contact with  
32 children within the scope of the individuals' employment.

33 (b) A school corporation, including a school township, shall  
34 administer a policy adopted under this section uniformly for all  
35 individuals to whom the policy applies.

36 **(c) A policy adopted under this section must require a criminal**  
37 **history background check, including a check of:**

38 (1) both in-state and out-of-state criminal records for the  
39 previous ten (10) years based upon the employee's prior  
40 residency; and

41 (2) sex offender registries in all fifty (50) states;

42 for each individual whose employment with the school corporation

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1 begins after June 30, 2007. A background check of in-state criminal  
 2 records must be completed not later than one (1) day before the  
 3 date on which an individual begins employment with the school  
 4 corporation. A background check of out-of-state criminal records  
 5 must be completed not later than (30) days after the date on which  
 6 the individual begins employment with the school corporation.

7 (d) The results of a criminal history background check, as  
 8 described in subsection (c), may include only:

- 9 (1) criminal history data with disposition information; and  
 10 (2) information with respect to any arrest or criminal charge  
 11 that occurred less than one (1) year before the date the  
 12 background check was initiated even if a disposition  
 13 concerning the arrest or criminal charge has not been  
 14 entered.

15 (e) Notwithstanding IC 10-13-3-39, a school corporation,  
 16 including a school township, may enter into an agreement with a  
 17 private entity to perform a criminal history background check  
 18 under this section.

19 (f) A policy adopted under this section may require any of the  
 20 following:

21 (1) The school corporation, including a school township, may  
 22 request limited criminal history information concerning each  
 23 applicant for noncertificated employment or certificated  
 24 employment from a local or state law enforcement agency before  
 25 or not later than three (3) months after the applicant's employment  
 26 by the school corporation.

27 (2) Each individual hired for noncertificated employment or  
 28 certificated employment may be required to provide a written  
 29 consent for the school corporation to request under IC 10-13-3  
 30 limited criminal history information or a national criminal history  
 31 background check concerning the individual before or not later  
 32 than three (3) months after the individual's employment by the  
 33 school corporation. The school corporation may require the  
 34 individual to provide a set of fingerprints and pay any fees  
 35 required for a national criminal history background check.

36 (3) Each individual hired for noncertificated employment may be  
 37 required at the time the individual is hired to submit a certified  
 38 copy of the individual's limited criminal history (as defined in  
 39 IC 10-13-3-11) to the school corporation.

40 (4) Each individual hired for noncertificated employment may be  
 41 required at the time the individual is hired to:

- 42 (A) submit a request to the Indiana central repository for

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limited criminal history information under IC 10-13-3;

(B) obtain a copy of the individual's limited criminal history;  
and

(C) submit to the school corporation the individual's limited criminal history and a document verifying a disposition (as defined in IC 10-13-3-7) that does not appear on the limited criminal history.

(5) Each applicant for noncertificated employment or certificated employment may be required at the time the individual applies to answer questions concerning the individual's limited criminal history. The failure to answer honestly questions asked under this subdivision is grounds for termination of the employee's employment.

(6) Each individual that:

(A) seeks to enter into a contract to provide services to a school corporation; or

(B) is employed by an entity that seeks to enter into a contract with a school corporation;

may be required at the time the contract is formed to comply with the procedures described in subdivisions (2), (4), and (5). An individual who is employed by an entity that seeks to enter into a contract with a school corporation to provide student services in which the entity's employees have direct contact with students in a school based program may be required to provide the consent described in subdivision (2) or the information described in subdivisions (4) and (5) to either the individual's employer or the school corporation. Failure to comply with subdivisions (2), (4), and (5), as required by the school corporation, is grounds for termination of the contract. An entity that enters into a contract with a school corporation to provide student services in which the entity's employees have direct contact with students in a school based program is allowed to obtain limited criminal history information or a national criminal history background check regarding the entity's applicants or employees in the same manner that a school corporation may obtain the information.

~~(e)~~ (g) If an individual is required to obtain a limited criminal history under this section, the individual is responsible for all costs associated with obtaining the limited criminal history. **The school corporation is responsible for all costs associated with obtaining a criminal history background check as described under subsection (c).**

~~(d)~~ (h) Information obtained under this section must be used in

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1 accordance with IC 10-13-3-29 or IC 10-13-3-39(g).

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## COMMITTEE REPORT

Mr. Speaker: Your Committee on Courts and Criminal Code, to which was referred House Bill 1410, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 2, line 5, delete "seven (7)" and insert "**ten (10)**".

Page 2, line 12, after "(d)" insert "**The results of a criminal history background check, as described in subsection (c), may include only:**

- (1) criminal history data with disposition information; and**
- (2) information with respect to any arrest or criminal charge that occurred less than one (1) year before the date the background check was initiated even if a disposition concerning the arrest or criminal charge has not been entered.**

**(e)".**

Page 2, line 16, delete "(e)" and insert "**(f)**".

Page 3, line 33, delete "(f)" and insert "**(g)**".

Page 3, line 34, after "section" insert ",".

Page 3, line 34, delete "or a criminal history background check described".

Page 3, line 35, delete "under subsection (c),".

Page 3, delete line 36.

Page 3, line 37, delete "corporation,".

Page 3, line 37, delete "or" and insert ". **The school corporation is responsible for all costs associated with obtaining a criminal history background check as described under subsection (c).**".

Page 3, delete line 38.

Page 3, line 39, delete "(g)" and insert "**(h)**".

and when so amended that said bill do pass.

(Reference is to HB 1410 as introduced.)

HOY, Chair

Committee Vote: yeas 11, nays 0.

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## HOUSE MOTION

Mr. Speaker: I move that House Bill 1410 be amended to read as follows:

Page 1, between the enacting clause and line 1, begin a new paragraph and insert:

"SECTION 1. IC 10-13-3-36, AS AMENDED BY P.L.142-2006, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 36. (a) The department may not charge a fee for responding to a request for the release of a limited criminal history record if the request is made by a nonprofit organization:

(1) that has been in existence for at least ten (10) years; and

(2) that:

(A) has a primary purpose of providing an individual relationship for a child with an adult volunteer if the request is made as part of a background investigation of a prospective adult volunteer for the organization;

(B) is a home health agency licensed under IC 16-27-1;

(C) is a community mental retardation and other developmental disabilities center (as defined in IC 12-7-2-39);

(D) is a supervised group living facility licensed under IC 12-28-5;

(E) is an area agency on aging designated under IC 12-10-1;

(F) is a community action agency (as defined in IC 12-14-23-2);

(G) is the owner or operator of a hospice program licensed under IC 16-25-3; or

(H) is a community mental health center (as defined in IC 12-7-2-38).

(b) Except as provided in subsection (d), the department may not charge a fee for responding to a request for the release of a limited criminal history record made by the department of child services or the division of family resources if the request is made as part of a background investigation of an applicant for a license under IC 12-17.2 or IC 31-27.

(c) The department may not charge a fee for responding to a request for the release of a limited criminal history if the request is made by a school corporation, special education cooperative, or nonpublic school (as defined in IC 20-18-2-12) as part of a background investigation of a prospective or current employee or a prospective or current adult volunteer for the school corporation, special education cooperative, or nonpublic school.

(d) As used in this subsection, "state agency" means an authority, a

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board, a branch, a commission, a committee, a department, a division, or another instrumentality of state government, including the executive and judicial branches of state government, the principal secretary of the senate, the principal clerk of the house of representatives, the executive director of the legislative services agency, a state elected official's office, or a body corporate and politic, but does not include a state educational institution (as defined in IC 20-12-0.5-1). The department may not charge a fee for responding to a request for the release of a limited criminal history if the request is made:

- (1) by a state agency; and
- (2) through the computer gateway that is administered by the office of technology established by IC 4-13.1-2-1.

(e) The department may not charge a fee for responding to a request for the release of a limited criminal history record made by the Indiana professional licensing agency established by IC 25-1-5-3 if the request is:

- (1) made through the computer gateway that is administered by the office of technology; and
- (2) part of a background investigation of a practitioner or an individual who has applied for a license issued by a board (as defined in IC 25-1-9-1).

(f) The department may not charge a church or religious society a fee for responding to a request for the release of a limited criminal history record if:

- (1) the church or religious society is a religious organization exempt from federal income taxation under Section 501 of the Internal Revenue Code;
- (2) the request is made as part of a background investigation of a prospective or current employee or a prospective or current adult volunteer; and
- (3) the employee or volunteer works in a nonprofit program or ministry of the church or religious society, including a child care ministry registered under IC 12-17.2-6.

**(g) The department may not charge the school of education of a public or private postsecondary educational institution a fee for responding to a request for the release of a limited criminal history record if the request is made as part of a background investigation of a student before or after the student begins the student's field or**

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**classroom experience."**

Renumber all SECTIONS consecutively.

(Reference is to HB 1410 as printed February 7, 2007.)

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HOUSE MOTION

Mr. Speaker: I move that House Bill 1410 be amended to read as follows:

Page 2, line 4, delete "in state" and insert "**in-state**".

Page 2, line 9, delete "required under" and insert "**of in-state criminal records must be completed not later than one (1) day before the date on which an individual begins employment with the school corporation. A background check of out-of-state criminal records must be completed not later than (30) days after the date on which the individual begins employment with the school corporation.**".

Page 2, delete lines 10 through 11.

(Reference is to HB 1410 as printed February 7, 2007.)

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